

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

IN RE NEW JERSEY TAX SALES  
CERTIFICATES ANTITRUST LITIG.

Civil Action No. 12-1893 (MAS) (TJB)

**MEMORANDUM ORDER**

This matter comes before the Court on the correspondence of counsel for Arlene Davis, Todd Zahn and Laura Zahn (“Class Objectors”) seeking leave to file a motion to compel discovery on the class action settlements as to which a “Fairness Hearing” is scheduled for April 25, 2016. (ECF No. 442.) Class Counsel and Class Defendants Robert U. Del Vecchio; Isadore May; M.D. Sass Municipal Finance Partners I, L.P.; M.D. Sass Municipal Finance Partners II, L.P.; M.D. Sass Municipal Finance Partners III, LLC; M.D. Sass Municipal Finance Partners IV, LLC; M.D. Sass Municipal Finance Partners V, LLC; M.D. Sass Municipal Finance Partners VI, LLC; M.D. Sass Tax Lien Management LLC; and M.D. Sass Investor Services, Inc. opposed this request in correspondence dated March 4, 2016, March 8, 2016, and March 9, 2016. (ECF Nos. 443, 444, 445.) Pursuant to the Court’s November 4, 2015 Order (ECF No. 428), “any member of the Settlement Class that does not wish to participate in the Settlement Class shall submit an exclusion request by March 14, 2016.” Thus, the Class Objectors have not yet committed to remaining in the class. Until the Class Objectors have made their decision to stay in the class by not opting out and have filed an objection to settlement, the Court finds that they are not entitled to discovery. *See, e.g., In re Lorazepam & Clorazepate Antitrust Litig.*, 205 F.R.D. 363, 366 (D.D.C. 2001) (denying discovery to “purported class members” noting that “[t]hough they claim to be ‘inclined’ to stay in the class, the opt-in date had not yet passed”); *Lee v. Ocwen Loan Servicing, LLC*, 101 F. Supp. 3d 1293, 1295 (S.D. Fla. 2015) (denying motion for discovery noting that settlement class

member “failed to formally object to settlement [and] it is not yet clear if she will even remain a settlement class member, rather than opting out of the proposed settlement”). If the Class Objectors choose to opt into the settlement class, they may file objections with the Court concerning the settlement’s fairness, and if necessary, the objectors may come back to this Court to seek discovery in support thereof.

Accordingly, **IT IS** on this 10<sup>th</sup> day of March, 2016 **ORDERED** that Class Objectors’ request for leave to file a motion to compel discovery is denied without prejudice.

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s/ Michael A. Shipp  
**MICHAEL A. SHIPP**  
**UNITED STATES DISTRICT JUDGE**